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OFFICE OF PETITIONS

In re Application of :
Figgner et al. : DECISION ON PETITION
Application Number: 10/594554 :
Filing Date: 09/27/2006 :
Attorney Docket Number: :
677/45189 :

This is a decision in reference to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE NOTICE OF ALLOWANCE AND REQUEST TO ISSUE A NEW NOTICE OF ALLOWANCE AND FEE(S) DUE," filed on November 10, 2009, which is treated as a petition under 37 CFR 1.181.

The petition is **GRANTED**.

The application was held abandoned on June 3, 2009, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on March 2, 2009, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on June 25, 2009.

Petitioner asserts that the Notice of Allowance and Fee(s) due was never received because it was mailed to an old correspondence address.

Specifically, petitioner asserts that a Change of Correspondence Address was filed on January 22, 2009, stating that the correspondence address was changed to the address associated with Customer Number 23646. Petitioner further asserts that the Notice of Allowance and Fee(s) Due mailed on March 2, 2009, was mailed to the address associated with Customer Number 23643, which was the Customer Number previously designed as for the correspondence address. Petitioner further states that the Notice of Allowance and Fee(s) Due was also not received at the address associated with Customer Number 23643, and has provided a docket report in support.

In the absence of any irregularity in the mailing of the Notice of Allowance and Fee(s) Due mailed on March 2, 2009, there is a

strong presumption that the Notice of Allowance and Fee(s) Due mailed on March 2, 2009 was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice of Allowance and Fee(s) Due mailed on March 2, 2009 was not in fact received.

A review of the official file reveals that a Change of Correspondence Address designating the correspondence address associated with Customer Number 23646 as the address of record was filed on January 22, 2009, but that the Notice of Allowance and Fee(s) Due mailed on March 2, 2009, was mailed to the address associated with Customer Number 23643.

As such, the showing of record is that the Office erred in mailing the Notice of Allowance and Fee(s) Due mailed on March 2, 2009 to an incorrect correspondence address.

The petitioner has made a sufficient showing of nonreceipt of the Notice of Allowance and Fee(s) Due. As such, there is no abandonment in fact. The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

As the present petition was not necessitated by an error on the part of petitioner, no fee is due.

The petition is GRANTED.

The application file is being referred to the Technology Center Art Unit 1797 for remailing of the Notice of Allowance and Fee(s) Due mailed on March 2, 2009. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



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